

CONTRACT FOR ORDER PROCESSING

between

hereinafter referred to as the Client

and the

WORTMANN TELECOM GmbH
Hankamp 2
32609 Hüllhorst

hereinafter referred to as the Contractor.

PREAMBLE

The Client wishes to commission the Contractor with the services specified in § 3. Part of the execution of the contract is the processing of personal data. In particular, Art. 28 GDPR places certain requirements on such commissioned processing. In order to comply with these requirements, the parties conclude the following agreement, the fulfilment of which is not remunerated separately unless this is expressly agreed.

§ 1 DEFINITIONS

1. Pursuant to Art. 4 (7) GDPR, the controller is the entity that alone or jointly with other controllers determines the purposes and means of the processing of personal data.
2. Processor is a natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller in accordance with Art. 4 (8) GDPR.
3. Pursuant to Art. 4 para. 1 GDPR, personal data is any information relating to an identified or identifiable natural person (hereinafter "data subject"); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.
4. Particularly sensitive personal data are personal data pursuant to Art. 9 GDPR that reveal the racial or ethnic origin, political opinions, religious or philosophical beliefs or trade union membership of data subjects, personal data pursuant to Art. 10 GDPR on criminal convictions and offences or related security measures as well as genetic data pursuant to Art. 4 para. 13 GDPR, biometric data pursuant to Art. 4 para. 14 GDPR, health data pursuant to Art. 4 para. 15 GDPR and data concerning a natural person's sex life or sexual orientation.
5. Processing means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction, in accordance with Art. 4 para. 2 GDPR.
6. Pursuant to Art. 4 (21) GDPR, the supervisory authority is an independent state body established by a Member State pursuant to Art. 51 GDPR.

§ 2 INDICATION OF THE COMPETENT DATA PROTECTION SUPERVISORY AUTHORITY

1. The competent supervisory authority for the client is

Name:	
Address:	Tel:
E-mail:	Web:

2. Responsible supervisory authority for the contractor is:

Name: State Commissioner for Data Protection and Information Security North Rhine-Westphalia	
Address: Kavalleriestraße 2-4 D-40213 Düsseldorf	Phone: 0211/384 24-0
E-mail: poststelle@ldi.nrw.de	Web: www.ldi.nrw.de

3. The Client and the Contractor and, if applicable, their representatives shall cooperate with the supervisory authority in the fulfilment of their tasks upon request.

§ 3 SUBJECT MATTER OF THE CONTRACT

1. The Contractor shall provide services for the Client in the field of information technology; production & trade, service & services. The basis is the previous business relationship. In doing so, the Contractor shall obtain access to personal data and process it exclusively on behalf of and in accordance with the instructions of the Client. The scope and purpose of data processing by the contractor are determined by the previous business relationship. The client is responsible for assessing the permissibility of the data processing.

2. The parties conclude the present agreement to concretise the mutual rights and obligations under data protection law. In case of doubt, the provisions of this agreement shall take precedence over the provisions of the previous business relationship.

3. The provisions of this Agreement shall apply to all activities that are connected with the previous business relationship and in which the Contractor and its employees or persons authorised by the Contractor come into contact with personal data originating from the Client or collected for the Client.

4. The term of this contract is based on the term of the previous business relationship, unless the following provisions give rise to additional obligations or cancellation rights.

§ 4 RIGHT TO ISSUE INSTRUCTIONS

1. The Contractor may only collect, process or use data within the scope of the business relationship and in accordance with the Client's instructions; this applies in particular with regard to the transfer of personal data to a third country or to an international organisation. If the Contractor is obliged by the law of the European Union or the Member States to which it is subject to carry out further processing, it shall inform the Client of these legal requirements prior to processing.

2. The Client's instructions are initially set out in this contract and may subsequently be amended, supplemented or replaced by the Client in writing or in text form by individual instructions (individual instructions). The client is authorised to issue corresponding instructions at any time. This includes instructions regarding the correction, deletion and blocking of data. The persons authorised to issue instructions are listed in Appendix 5.

In the event of a change or long-term absence of the named persons, the successor or representative must be named to the contractual partner immediately in text form.

3. All instructions issued must be documented by both the client and the contractor. Instructions that go beyond the service agreed in the main contract shall be treated as a request for a change in service.

4. If the Contractor is of the opinion that an instruction from the Client violates data protection regulations, it must inform the Client of this immediately. The Contractor may refuse to carry out an obviously unlawful instruction.

§ 5 TYPE OF DATA PROCESSED, GROUP OF DATA SUBJECTS

1. In the course of carrying out the business relationship, the Contractor shall have access to the personal data specified in more detail in Annex 1. This data includes the special categories of personal data listed and labelled as such in Annex 1.

2. The group of data subjects affected by the data processing is shown in Appendix 2.

§ 6 PROTECTIVE MEASURES OF THE CONTRACTOR

1. The Contractor is obliged to comply with the statutory provisions on data protection and not to disclose the information obtained from the client's area to third parties or expose it to

expose their access. Documents and data must be secured against unauthorised access, taking into account the state of the art.

2. The Contractor shall design the internal organisation in its area of responsibility in such a way that it meets the special requirements of data protection. It shall take all necessary technical and organisational measures to adequately protect the Client's data in accordance with Art. 32 GDPR, in particular at least the measures listed in Annex 3 for

- a) access control
- b) Access control
- c) access control
- d) Transfer control
- e) Input control
- f) Order control
- g) Availability control
- h) Separation control

The Contractor reserves the right to change the security measures taken, whereby it shall ensure that the contractually agreed level of protection is not fallen short of.

3. Mr Olaf Tenti has been appointed as the Contractor's data protection officer/contact person for data protection.

Name: Olaf Tenti	
Address: Fleyer Straße 62 D-58097 Hagen	Phone: +49 (0) 2331 356 832-0 Fax: +49 (0) 2331 356 832-1
E-mail: info@gdi-mbh.eu	Web: www.gdi-mbh.eu

The Contractor shall publish the contact details of the data protection officer on its website and inform the supervisory authority thereof. The contractor shall provide suitable evidence of publication and notification at the request of the client.

4. Persons employed by the Contractor for data processing are prohibited from collecting, processing or using personal data without authorisation. The Contractor shall oblige all persons entrusted by it with the processing and fulfilment of this contract (hereinafter referred to as employees) accordingly (obligation of confidentiality, Art. 28 para. 3 lit. b GDPR) and ensure compliance with this obligation with due care. These obligations must be formulated in such a way that they remain in force even after termination of this contract or the employment relationship between the employee and the contractor. The obligations must be demonstrated to the client in a suitable manner upon request.

§ 7 INFORMATION OBLIGATIONS OF THE CONTRACTOR

1. In the event of disruptions, suspected data protection violations or breaches of contractual obligations of the Contractor, suspected security-relevant incidents or other irregularities in the processing of personal data by the Contractor, by persons employed by the Contractor within the scope of the contract or by third parties, the Contractor shall inform the Client immediately in writing or text form. The same applies to audits of the Contractor by the data protection supervisory authority. The notification of a personal data breach shall contain at least the following information:

- a) a description of the nature of the personal data breach, including, where possible, the categories and number of data subjects concerned, the categories concerned and the number of personal data records concerned;
- b) a description of the measures taken or proposed to be taken by the Contractor to address the breach and, where appropriate, measures to mitigate its possible adverse effects.

2. The Contractor shall immediately take the necessary measures to secure the data and to mitigate any possible adverse effects on the data subjects, inform the Client thereof and request further instructions.
3. The Contractor shall also be obliged to provide the Client with information at any time, insofar as its data is affected by a breach in accordance with paragraph 1.
4. Should the Client's data be jeopardised by seizure or confiscation, by insolvency or composition proceedings or by other events or measures by third parties, the Contractor shall inform the Client of this immediately, unless it is prohibited from doing so by court or official order. In this context, the Contractor shall immediately inform all competent bodies that the decision-making authority over the data lies exclusively with the Client as the "controller" within the meaning of the GDPR.
5. The Contractor shall inform the Client immediately of any significant changes to the security measures in accordance with Section 6 (2).
6. A change in the person of the company data protection officer/contact person for data protection must be communicated to the client immediately.
7. The Contractor and, if applicable, its representative shall keep a list of all categories of processing activities carried out on behalf of the Client, which shall contain all information pursuant to Art. 30 para. 2 GDPR. The register shall be made available to the client upon request.
8. The Contractor shall co-operate to an appropriate extent in the preparation of the procedure directory by the Client. It must provide the Client with the necessary information in an appropriate manner.

§ 8 INSPECTION RIGHTS OF THE CLIENT

1. The Client shall satisfy itself of the technical and organisational measures taken by the Contractor before commencing data processing and then regularly at appropriate intervals. For this purpose, it may, for example, obtain information from the Contractor, have existing certificates from experts, certifications or internal audits presented to it, or personally inspect the Contractor's technical and organisational measures after timely coordination during normal business hours or have them inspected by a competent third party, provided that the latter is not in a competitive relationship with the Contractor. The Client shall only carry out inspections to the extent necessary and shall not disproportionately disrupt the Contractor's operating procedures.
2. The Contractor undertakes to provide the Client with all information and evidence required to carry out an inspection of the Contractor's technical and organisational measures at the Client's verbal or written request within a reasonable period of time.
3. The Client shall document the results of the inspection and inform the Contractor thereof. In the event of errors or irregularities that the Client discovers, in particular during the inspection of order results, it must inform the Contractor immediately. If facts are discovered during the inspection which require changes to be made to the ordered procedure in order to avoid them in the future, the client shall inform the contractor of the necessary procedural changes without delay.
4. At the Client's request, the Contractor shall provide the Client with a comprehensive and up-to-date data protection and security concept for order processing and for authorised persons.
5. The Contractor shall provide the Client with evidence of the obligation of the employees pursuant to Section 6 (4) upon request.

§ 9 USE OF SUBCONTRACTORS

1. The contractually agreed services or the partial services described below shall be carried out with the involvement of the subcontractors named in Annex 4. Within the scope of its contractual obligations, the Contractor is authorised to establish further subcontracting relationships with subcontractors ("subcontractor relationship"), provided that it informs the Client of this in advance and the Client has given its prior written consent to the commissioning of the subcontractor. The Contractor is obliged to carefully select subcontractors according to their suitability and reliability. When engaging subcontractors, the Contractor must bind them in accordance with the provisions of this agreement and ensure that the Client asserts its rights under this agreement (in particular its right of inspection).

rights under this agreement (in particular its inspection and control rights) directly vis-à-vis the subcontractors. If subcontractors in a third country are to be involved, the Contractor must ensure that an appropriate level of data protection is guaranteed at the respective subcontractor (e.g. by concluding an agreement based on the EU standard data protection clauses). Upon request, the Contractor shall provide the Client with evidence of the conclusion of the aforementioned agreements with its subcontractors.

2. A subcontractor relationship within the meaning of these provisions does not exist if the Contractor commissions third parties with services that are to be regarded as purely ancillary services. These include, for example, postal, transport and despatch services, cleaning services, telecommunications services with no direct connection to services provided by the Contractor for the Client and security services. Maintenance and testing services constitute subcontractor relationships requiring approval if they are provided for IT systems that are also used in connection with the provision of services for the Client.

§ 10 ENQUIRIES AND RIGHTS OF AFFECTED PARTIES

1. The Contractor shall support the Client as far as possible with suitable technical and organisational measures in the

organisational measures in the fulfilment of its obligations under Art. 12-22 as well as 32 and 36 GDPR.

2. If a data subject asserts rights, such as the right to information, correction or deletion of their data, directly against the Contractor, the Contractor shall not respond independently, but shall immediately refer the data subject to the Client and await the Client's instructions.

§ 11 LIABILITY

1. In the internal relationship with the Contractor, the Client alone shall be liable to the data subject for compensation for damages suffered by the data subject due to unauthorised or incorrect data processing or use in the context of commissioned processing.

2. The parties shall release each other from liability if one party proves that it is in no way responsible for the circumstance that caused the damage to a data subject.

§ 12 EXTRAORDINARY RIGHT OF CANCELLATION

1. The Client may terminate the main contract in whole or in part without notice if the Contractor fails to fulfil its obligations under this contract, intentionally or grossly negligently violates provisions of the GDPR or is unable or unwilling to carry out an instruction of the Client. In the case of simple - i.e. neither wilful nor grossly negligent - breaches, the Client shall set the Contractor a reasonable deadline within which the Contractor can remedy the breach.

§ 13 TERMINATION OF THE MAIN CONTRACT

1. The Contractor shall return to the Client all documents, data and data carriers provided to it after termination of the main contract or at any time at the Client's request or - at the Client's request, unless there is an obligation to store the personal data under Union law or the law of the Federal Republic of Germany - delete them. This also applies to any data backups at the Contractor. The Contractor shall provide documented proof

of the proper deletion of any remaining data. Documents to be disposed of must be destroyed using a document shredder in accordance with DIN 32757-1. Data carriers to be disposed of must be destroyed in accordance with DIN 66399.

2. The client shall have the right to check the complete and contractually compliant return or deletion of the data at the contractor's premises in a suitable manner.

3. The Contractor shall be obliged to treat the data of which it becomes aware in connection with the main contract confidentially even after the end of the main contract. This agreement shall remain valid beyond the end of the main contract for as long as the Contractor has personal data that was forwarded to it by the Client or that it has collected for the Client.

§ 14 FINAL PROVISIONS

1. The parties agree that the defence of the right of retention by the Contractor within the meaning of § 273 BGB and/or lessor's lien with regard to the data to be processed and the associated data carriers is excluded.

2. Amendments and supplements to this agreement must be made in writing. This also applies to the waiver of this formal requirement. The precedence of individual contractual agreements remains unaffected by this.

3. Should individual provisions of this agreement be or become wholly or partially invalid or unenforceable, this shall not affect the validity of the remaining provisions.

4. This agreement is subject to German law. The exclusive place of jurisdiction is Bad Oeynhausen.

The following ANNEXES are subject matter of the contract:

[ANNEX 1 - Description of the data/data categories requiring special protection ANNEX](#)

[2 - Description of the data subjects/groups of data subjects](#)

[ANNEX 3 - Technical and organisational measures of the contractor ANNEX 4 -](#)

[Approved subcontractors](#)

[ANNEX 5 - Persons authorised to issue instructions](#)

Place, date

Place, date

Signature of contractual partner

Signature WORTMANN TELECOM GmbH